

EMERGENCY RULE AND REGULATION 78

SMALL EMPLOYER HEALTH PURCHASING GROUPS

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Section 1. Purpose

The purpose of this Regulation is to implement Act 1358 of 2003 that amended Ark. Code Ann. §23-86-505. This Regulation prescribes the form and manner of the written notice, required by the "Small Employer Health Insurance Purchasing Group Act" in Ark Code Ann. §§23-86-501 *et seq.*, provided by a health insurance purchasing group offering a health benefits plan, as defined in Ark Code Ann §23-86-502(6), which does not provide state mandated health benefits, as defined in Ark. Code Ann. §23-86-502(15)(A).

Section 2. Authority

This Rule is issued pursuant to the authority vested in the Insurance Commissioner in Ark. Code Ann. §§23-61-108 and 23-86-505.

Section 3. Applicability and Scope

This regulation shall apply to all health insurance purchasing groups, as defined in Ark. Code Ann. §23-86-502(9).

4. Effective Date

The provisions of this Rule shall be effective on July 16, 2003.

Section 5. Required Written Notice Upon Rejection Of State Mandated Health Benefits

Every health insurance purchasing group, which offers a health benefits plan, which either in whole or in part, will not have state mandated health benefits, as defined in Ark. Code Ann. §23-86-502(15)(A), shall provide to each eligible employee a written notice that the health benefits plan does not contain all state mandated benefits. This written notice shall be provided to each eligible employee no later than thirty (30) days after the eligible employee enrolls in the plan. Such notice may be provided in a separate document, or incorporated in the enrollment application, or provided in a certificate of coverage provided to the eligible employee. The notice shall:

(1) List each state mandated health benefit or service which is not provided in the health benefits plan(s); and

(2) Urge the eligible employee to consult with his or her employer, representatives of the health insurance purchasing group, the purchasing group health carrier, or the Arkansas Insurance Department Consumer Affairs or Legal Division about questions or concerns related to the nature of the state mandated health benefit which is not offered in the health benefits plan.

The health insurance purchasing group may contract with its health insurance purchasing group health carrier to provide the notice required by this Regulation.

Section 6. Failure To Provide Required Written Notice Of State Mandated Health Benefits

Every health insurance purchasing group, or health carrier contracted to provide the written notice under Section Five (5) of this rule, which fails, as a pattern or practice, to provide the written notice as required under Section Five (5) of this Rule shall be deemed to have committed a violation of the Trade Practices Act pursuant to Ark. Code Ann. §23-66-206(8). It shall be presumed that a health insurance group, or health insurance purchasing group health carrier, is not engaged in a trade practice violation under this Section, if the health insurance purchasing group, or health insurance purchasing group health carrier, has a reasonable procedure in place and regularly provides the written notices as required under Section Five (5) of this Rule. Upon the failure to provide the written notice as required in Section Five (5), the proposed eligible employee is deemed to have selected a health benefits plan subject to each applicable state mandated health benefits or service which was not listed in the required written notice. The responsibility for payment for any health benefits or services, which were required to be listed in the notice, but were not so listed in the notice, and therefore required to be covered under this section shall be the responsibility of the small employer health purchasing group, rather than the health insurance purchasing group health carrier.

Section 7. Severability Provision

If any section or portion of a section of this Regulation or the application thereof to any person or circumstances is held invalid by a court, the remainder of this Regulation or the application of its provisions to other persons or circumstances shall not be affected.



Mike Pickens
Insurance Commissioner

July 15, 2003

Date